



Re: Question   
Sheldon Muller to: Bell, Michael  
Bcc: Judith Binegar

11/06/2009 03:59 PM

CONFIDENTIAL SETTLEMENT COMMUNICATIONS

Mike:

I appreciate your question on this issue. When you and I talked, the focus was primarily on the work to be performed, as I'm sure that you and I agree that this is the most important matter to address at this time. We didn't really discuss EPA's intentions regarding possible cost recovery from Mr. Rakhonen. EPA hasn't yet evaluated that prospect, and I don't expect we will do so for a little while. But, we certainly haven't made any decision, preliminary or otherwise, ruling out that possibility. The reservation of our right to recover costs from ATK Launch Systems, Inc. that will be included in the Administrative Settlement Agreement and Order on Consent, and that we discussed this morning, simply preserves the right of the United States to recover response costs from ATK. It does not in any way commit us from only seeking to recover costs from ATK in lieu of seeking to recover costs from Mr. Rakhonen. Hopefully that answers your question. If you would like to discuss that issue in more detail, please call me.

I would also like to reiterate EPA's appreciation for your commitment on behalf of ATK to enter into a settlement agreement with EPA to dispose of all waste material at the site. As I committed during our discussion on the phone this morning, I am drafting the Administrative Settlement Agreement and Order on Consent and will send that to you via email on Monday.

I would like to give you a heads-up on some of the obligations under the settlement agreement so that ATK can, as necessary, start preparing to meet those requirements. These are requirements that are included in all settlement agreements. First, in conjunction with the transportation and disposal of the materials at the site, there is a requirement in the settlement agreement that ATK secure and maintain comprehensive general liability insurance and automobile insurance (with limits to be determined, but that will probably be approximately \$2 Million), combined single limit, naming EPA as an additional insured. ATK can satisfy the insurance requirement by showing that any of the contractors or subcontractors the company uses for the cleanup maintains equivalent insurance, or insurance covering some or all of the same risks but in an equal or lesser amount, in which case ATK need only provide that portion of the insurance which is not maintained by the contractor or subcontractor. ATK will also need to ensure that its contractors satisfy all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing work at the site.

The settlement agreement also requires ATK to establish financial assurance for the estimated cost of the work. This can be provided through a number of vehicles, including a surety bond, letter of credit, trust fund, insurance policy, or by a demonstration that ATK (or a parent corporation) has sufficient financial resources to pay for the work (as demonstrated under 40 C.F.R. § 264.143(f)).

ATK will also need to make provision for access to the storage locations. If ATK has difficulty getting access, EPA can provide assistance.

In addition to the work plan that we discussed, I also mentioned this morning the need for ATK's contractor to prepare a health and safety plan and to follow QA/QC requirements that will be detailed in the settlement agreement. I'm sure this will be customary for the contractor.

This morning after we discussed the need that the disposal of waste material be at a facility that meets regulatory requirements set forth in EPA's regulations, you indicated that you would check with your contractor on that and then get back to me. Since I haven't heard back from you on that issue, I assume that you received a satisfactory response from your contractor.

Please call if you have any questions. I will be leaving shortly to attend to another matter, but will be back in the office Monday at around 7:45 a.m.

Sincerely,

Sheldon Muller  
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"Bell, Michael"	Hello Sheldon - I am wondering if you can tell m...	11/06/2009 02:52:10 PM
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From:	"Bell, Michael" <Michael.Bell@ATK.com>
To:	Sheldon Muller/ENF/R8/USEPA/US@EPA
Date:	11/06/2009 02:52 PM
Subject:	Question

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Hello Sheldon – I am wondering if you can tell me why the EPA isn't going after Mr. Rakhonen or his company for reimbursement of response costs instead of looking past Mr. Rekhonen to ATK? Thanks.

Mike